

ORDINANCE NO. 90-29

2 AN ORDINANCE OF THE BOARD OF COUNTY
3 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,
4 PROVIDING FOR AMENDMENT TO THE ELECTRIC
5 FRANCHISE AGREEMENT WITH FLORIDA POWER & LIGHT
6 COMPANY IN THE UNINCORPORATED AREAS OF PALM
7 BEACH COUNTY, ADJUSTING FROM FOUR PERCENT TO
8 SIX PERCENT THE AMOUNT OF REVENUE PAID TO PALM
9 BEACH COUNTY BY FLORIDA POWER & LIGHT COMPANY;
10 PROVIDING FOR DELIVERY OF A CERTIFIED COPY OF
11 THE ORDINANCE TO FLORIDA POWER & LIGHT
12 COMPANY; PROVIDING THAT THE ORDINANCE DOES NOT
13 OTHERWISE AMEND ORDINANCE 85-39; PROVIDING FOR
14 CODIFICATION OF THE ORDINANCE; PROVIDING FOR
15 SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

16 WHEREAS, Palm Beach County entered into its current
17 electric franchise agreement with Florida Power & Light Company in
18 Ordinance 85-39 which was adopted by the Board of County
19 Commissioners of Palm Beach County on December 10, 1985 and filed
20 with the Secretary of State December 11, 1985; and

21 WHEREAS, Florida Power & Light company filed an
22 acceptance of the electric franchise on December 27, 1985 and the
23 franchise went into effect upon that date; and

24 WHEREAS, Ordinance 85-39 provides that Palm Beach County
25 shall have the option to adjust the amounts paid to the County
26 under the agreement from four percent to an amount not to exceed
27 six percent for the sixth and subsequent years of the grant; and

28 WHEREAS, Ordinance 85-39 provides such option shall be
29 exercised by delivering a certified copy of an ordinance exercising
30 the option to Florida Power & Light Company no later than ninety
31 (90) days before the fifth anniversary of the grant, therefore

1 necessitating delivery of an ordinance to Florida Power & Light
2 Company on or before September 28, 1990; and

3 WHEREAS, Palm Beach County has determined that it is in
4 the interest of the County to exercise the option provided in the
5 current franchise agreement and to raise the total amount paid by
6 Florida Power & Light Company to Palm Beach County to six percent.

7 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
8 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

9 SECTION 1. AMENDMENT TO FRANCHISE AGREEMENT

10 Palm Beach County hereby exercises the option provided in
11 Section 5 of Ordinance 85-39 to raise the franchise fee with
12 Florida Power & Light Company for electricity in the unincorporated
13 areas of Palm Beach County as follows:

14 No later than sixty (60) days after the sixth
15 anniversary date of this grant and no later
16 than sixty (60) days after each succeeding
17 anniversary date of this grant, the Grantee,
18 its successors and assigns, shall have paid to
19 the Grantor and its successors an amount which
20 added to the amount of all taxes as assessed,
21 levied or imposed (without regard to any
22 discount for early payment or any interest or
23 penalty for late payment), special
24 assessments, licenses, excises, fees, charges
25 and other impositions of any kind whatsoever
26 (except the County school tax and the taxes
27 for county school districts levied under
28 Article VII, Section 9, of the Constitution of
29 the State of Florida as constituted on the
30 date of this grant and except amounts for
31 assessments for special benefits, such as
32 sidewalks, street paving and similar

improvements) levied or imposed upon the
Grantee's electric property, business or
operations, and those of Grantee's electric
subsidiaries within Palm Beach County,
Florida, by the Grantor for itself or for the
benefit of any other general or special public
or other governmental body located in whole or
in part within the limits of Palm Beach
County, Florida, or so levied or imposed by or
under any authority other than municipalities
for the benefit of any general or special
public or other governmental body, located in
whole or in part within the limits of Palm
Beach County, Florida, including the Grantor,
for the preceding tax year, will equal six
percent (6%) of Grantee's revenues from the
sale of electrical energy to residential,
commercial and industrial customers within the
unincorporated areas of Palm Beach County,
Florida, for the twelve (12) fiscal months
preceding the applicable anniversary date.

SECTION 2. DELIVERY OF CERTIFIED COPY OF ORDINANCE TO

FLORIDA POWER & LIGHT COMPANY

As a condition precedent to the taking effect of the
option exercised by this ordinance, Palm Beach County shall deliver
to Florida Power & Light Company a certified copy of this ordinance
no later than ninety (90) days before the fifth anniversary date of
the franchise grant in Ordinance 85-39.

SECTION 3. EXERCISE OF OPTION DOES NOT AMEND OTHER
PROVISIONS OF ORDINANCE 85-39.

This ordinance does not amend any other provision or
section of the franchise agreement with Florida Power & Light

1 Company except as set forth in Section 1 of this ordinance.

2 SECTION 4. THE PROVISIONS OF THIS ORDINANCE SHALL BE
3 MADE A PART OF THE CODE OF LAWS AND ORDINANCES OF PALM BEACH COUNTY

4 The sections of the ordinance may be renumbered or
5 relettered to accomplish such, and the word "ordinance" may be
6 changed to "section," "article," and any other appropriate word.

7 SECTION 5. SEVERABILITY

8 If any section, paragraph, sentence, clause, phrase, or
9 word of this ordinance is for any reason held by the Court to be
10 unconstitutional, inoperative or void, such holding shall not
11 affect the remainder of this ordinance.

12 SECTION 6. EFFECTIVE DATE

13 The provisions of this ordinance shall become effective
14 upon receipt of acknowledgement by the Secretary of State.

15 APPROVED AND ADOPTED by the Board of County Commissioners
16 of Palm Beach County, Florida on 11th day of September,
17 1990.

18 PALM BEACH COUNTY, FLORIDA, BY ITS
19 BOARD OF COUNTY COMMISSIONERS

20 By John B. Dunkle

Vice-Chair, Board of County Commissioners
JOHN B. DUNKLE, CLERK
Board of County Commissioners

By Doris Powell
DEPUTY CLERK

21 APPROVED AS TO FORM AND
22 LEGAL SUFFICIENCY
23 Robert P. Bond
24 County Attorney

25 Acknowledgement by the Department of State of the State
26 of Florida on this, the 14th day of September, 1990.

27 EFFECTIVE DATE: Acknowledgement from the Department of
28 State received on the 17th day of September, 1990, at
29 9:39 A.M. and filed in the Office of the Clerk of the Board of
30 County Commissioners of Palm Beach County, Florida.

31 (FPL1)

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, JOHN B. DUNKLE, ex-officio Clerk of the
Board of County Commissioners certify this to
be a true and correct copy of the original filed in
my office on 9/17/90.
DATED at West Palm Beach, FL on 9/17/90.
JOHN B. DUNKLE, Clerk,
By: John B. DUNKLE D.C.
Doris Powell